



ZONING BOARD OF APPEALS
RICHARD D. CARNEY MUNICIPAL OFFICE BUILDING
100 MAPLE AVENUE
SHREWSBURY, MASSACHUSETTS 01545-5398

March 5, 2003

PUBLIC HEARING: Kevin and Tara Lynch and Linda Bilodeau, 80 Main Circle,
Shrewsbury, MA.

PURPOSE: To hear the appeal of Kevin and Tara Lynch and Linda Bilodeau, 12
Heronwood Drive, Shrewsbury, MA, for a special permit as required by the
Town of Shrewsbury Zoning Bylaw, Section VI, Table I, to allow the
occupancy of a portion of a single family home to be constructed upon
property located at 80 Main Circle as an in-law apartment. The subject
premises is described on the Shrewsbury Assessor's Tax Plate 24 as Plot 1-
6.

PRESENT: Anthony M. Salerno, Chairman, Paul M. George, Martha P. Deering, Melvin
P. Gordon, Bridget M. Murphy and Ronald S. Alarie, Building Inspector.

Mr. Salerno opened the hearing by reading the advertisement as it appeared in the
Worcester Telegram on February 18, 2003 and February 25, 2003.

Mr. Salerno: Are you representing them?

Mr. Ronald Peris: Yes, I will be representing them. They are away and they asked me to
represent them.

Mr. Salerno: Mr. Peris, you can come to the table. Please identify yourself for the audio
record and make your presentation.

Mr. Peris: My name is Ron Peris. I will be representing Kevin and Tara Lynch and
Linda Bilodeau this evening. I'm a residential home builder in Shrewsbury. My
company is Peris and Sons Builders, Inc.

A few months ago I was asked by the Lynches and Ms. Bilodeau to design and build a
home on a lot that I'm purchasing on Main Circle, which I did. Part of that request was
to incorporate an in-law apartment into the home so that the mother, Linda Bilodeau,
could reside there with the daughter and son in-law. I've done that. I thought, probably,
the easiest way to give you a verbal and visual on it was to set up the plan and just walk
you through it quickly. It might expedite things. I could quickly show you the interior
and the exterior elevations of the plan. It might be helpful. Could I do that?

Mr. Salerno: Certainly, whatever you feel, Mr. Peris, that would help.

Mr. Peris: I might need someone to just help me. This is the plan of the home. Basically, it's a Colonial style home. It has 4,048 total square feet. The residence is about 2,824 sq. ft. and the apartment would consist of 1,224 sq. ft. I designed the home to try to make it so that the apartment would not be obvious to the appearance of the building. When you look at the exterior of the building, I didn't want it to have any appearance of being anything other than a single family home. I designed the apartment over the 3-car garage, that would have been constructed anyway, and a mudroom area in between the main house and the garage. The main entrance for the apartment would be from the mudroom entrance. You would go up a stairway to the area where the apartment would be located. The apartment is, again, over the garage. This is the top of the stairs where you would enter the apartment. It consists of 2 bedrooms, a large kind of family room area, a small kitchen area with a laundry and a full bathroom off of the main hallway. Basically, there is an egress/entrance out of the back with a small deck in the rear of the building and a stairway leading back to grade.

I also have some exterior elevations just to show you the exterior of the building. This is a front view of the building, the apartment being here. The bathroom window for the apartment is here and this being the main residence. The side elevation of the garage that the apartment would be above is this elevation here. Can every body see that? Okay. The rear elevation would be right here. That would be the area where the family room would be. That would be where the actual kitchen window for the sink would be. Again, this was the main residence of the home.

I did explain to the Lynches and Ms. Bilodeau before they left and they were aware of the implications of the apartment and the use of it. I explained that to them and asked them to give me a simple statement with their signatures acknowledging that I did explain to them that it would be for family only, that it would be recorded on their deed and that, if their house did at any time transfer, that would go along with the deed. They said they understood that and they gave me, like I said, a very brief letter with their signatures. Would you like to see it?

Mr. Peris gave the letter to Mr. Salerno.

Mr. George: Ron, is there an easement that runs through that property at all?

Mr. Peris: There is a sewer easement that runs where the driveway would be, Paul. I actually have the site plan. If there's any questions on the site plan I could put that up and I could show you the actual location of the home.

Mr. George: Is the driveway going to be sitting on the easement?

Mr. Peris: Yes. I spoke with Bob Tozeski about that. He had no problem with me siting the driveway over the easement. It's a sewer easement and he didn't feel that that was going to be a problem.

Mr. Salerno: Mr. Peris, the tax map and the plot plan that you submitted don't show the same dimensions. Has the lot been reconfigured?

Mr. Peris: Yes. What happened was that, originally, there were 2 lots there. Because of the Rivers Act and the 200 ft. buffer zone, 1 of the lots was actually eliminated. What we did was we combined the 2 lots into 1 and kept the house to the right of the property so that it wouldn't be near any of the wetlands. We got an Order of Conditions from the Conservation Commission, which they approved at the last meeting.

Mr. Salerno: This is a house that hasn't been constructed yet and they want an in-law apartment. Is there any information that you can provide us that would show why they need relief from the act to get a special permit for the in-law apartment, more than for just convenience?

Mr. Peris: I can only speak from my own opinion on this. I didn't really discuss that with them. Mrs. Lynch's sister was killed in an auto accident a year ago. I know she struggles with it. I know that her mother has been kind of instrumental in helping her to deal with her issues with that accident.

Mr. Salerno: This is the motorcycle accident on Route 9?

Mr. Peris: Yes, right on Route 9. I know that her mother is instrumental in helping her with child care.

Mr. Salerno: So, you're telling us that there is a medical need for Tara to be with her mom in this facility?

Mr. Peris: That's my belief, but I don't have any documentation from a doctor or anything. I know that that has been an issue that they have been dealing with in the family.

Mr. Salerno: So, what you're telling us is that there's a dependence need here in some format? That's the reason why they're going into this joint venture together?

Mr. Peris: Yes. I believe that her mother is instrumental right now in helping out. It's been a real challenge for Tara.

Mr. Salerno: I believe the girls were close in age?

Mr. Peris: Yes.

Mr. Gordon: They would not have any objection to this lot having another deed restriction that it could not be further subdivided?

Mr. Peris: No, actually not. That is actually part of my agreement with the seller of the land that this could only be developed for 1 home. It cannot be subdivided in the future in any way or manor or anything else. I agreed to that in the purchase of the land.

Mr. Gordon: Was this going to have a 3-car garage even if it didn't have an in-law apartment?

Mr. Peris: They had spoken about it. You know, I can't confirm or deny that. I just, basically, started with a 3-car garage. I really can't tell you for sure, but they did ask me to design it the way I designed it.

Mr. Gordon: This is a special permit. Would they have an objection to there being a time limit on this, either for Ms. Bilodeau's lifetime or 30 years, whichever comes first? Then they would have to come back for another special permit.

Mr. Peris: I don't believe that they would. Unfortunately, they're not here to answer that question. If I need to, I guess, we could continue this and I can have a discussion with them about that if it's important to answer that question. I could do that.

Mr. Salerno: But, if it was limited and I think that is what Mr. Gordon is asking because of the uncertainty that we're dealing with, this is not a house which you normally would see as a house that needs to be modified for some medical reason or elderly care or something of that nature. In this particular instance, we've got new construction. You told us that there is some dependency or need here between the families which we're familiar with and that issue there. Like Mr. Gordon is suggesting, if in fact the permit is granted, it would be with restrictions that there be no further land division and that the special permit be tied to the occupancy of the mother. That is in compliance with what has been represented and the fact that she is there because of a need.

Mr. Peris: Right.

Mr. Salerno: I would be inclined to do that also, to tie it to her occupancy.

Mr. Gordon: That's a reasonable restriction.

Mr. Salerno: It fits with what they're asking for.

Mr. Peris: The question I have is that I have not spoken to them about those types of issues.

Mr. Salerno: If that's not acceptable to them, then, again, maybe they can come back for a modification or we can wait until we can speak with them.

Mr. Peris: I wonder if, maybe, I should continue and just speak with them. I don't think that that's an issue, but I hate to answer that question for them. I'm sure it probably wouldn't be, but I feel like they should physically be here to make that decision.

Mr. Salerno: Just to be clear, I know what Mr. Gordon has suggested and I'm in agreement with that, I would vote for a special permit that would be tied to her occupancy, Ms. Linda Bilodeau's, in that particular space. Are you able to reach them now? Do you have a contact number?

Mr. Peris: No, I don't. They're out of the country, actually. They had this trip planned well in advance.

Mr. Gordon: Why couldn't we approve it with the conditions we want? Then, if they don't like the conditions on that, they could then ask the board for a modification or a withdrawal.

Mr. Peris: Okay. I have 1 question. Ms. Bilodeau has a son that's away and occasionally comes home to visit. Would that exclude him from being able to visit and stay there?

Mr. Salerno: No, we're talking about occupancy. Someone coming to visit doesn't violate the intent of the special permit unless it's permanent residency.

Mr. Peris: No, that's not his permanent residence. I don't believe that's his permanent residence.

Mr. Alarie: The provisions of the bylaw allow up to 3 occupants in an in-law apartment. So, unless the board took exception to that, that would be within the confines of an in-law apartment.

Mr. Salerno: And the length of the permit is what we were talking about being tied to Ms. Bilodeau's need to be there.

Mr. Peris: Okay.

Mr. Gordon: That doesn't mean that, at a future time, they couldn't come back and have that extended.

Mr. Peris: So, it would be tied to Ms. Bilodeau's occupancy? When she's no longer an occupant, they have to come and reapply for a continuation of it?

Mr. Salerno: If that's what it's approved as.

Mr. Peris: Okay.

Mr. Salerno: The permit would terminate upon her vacating.

Mr. Peris: Well, if we could do that that would be great. Then, basically, I'll present it to them. If they had a problem with that, we could always come back and revisit this?

Mr. Salerno: Again, that's just the way 2 of us feel. There are 3 other members who will discuss this at the time we vote on it. I'm suggesting to you that at least 2 of us feel that that's language that we would like to add and give you the opportunity to at least address that.

Mr. Peris: I would prefer to do that. Again, if it's an issue, then we could resubmit for a new hearing.

Mr. Salerno: Are there any other board members who wish to inquire of this petitioner? Is there anybody in attendance this evening that wants to comment on this petition? On

behalf of your clients, Mr. Peris, we'll take this matter under advisement, vote on it at the end of the meeting and I believe it's the petitioners who have to be notified.

Mr. Peris: Thank you.

Decision

On March 5, 2003 the Zoning Board of Appeals unanimously voted to grant the appeal of Kevin and Tara Lynch and Linda Bilodeau, 12 Heronwood Drive, Shrewsbury, MA, for a special permit as required by the Town of Shrewsbury Zoning Bylaw, Section VI, Table I, to allow the occupancy of a portion of a single family home to be constructed upon property located at 80 Main Circle as an in-law apartment.

The board reviewed the appellants' presentation and the plans for the proposed dwelling they intend to construct upon the subject property and found that the inclusion of an in-law apartment above the 3 car garage, which is attached to the southerly side of the proposed structure, conformed to the intent of the bylaw in permitting such accessory living accommodations within or attached to a single family dwelling. It was their opinion that the development and use of this property for said purposes would be compatible with the general character of the immediate neighborhood and would not create any condition which would be harmful or injurious to the welfare of the general public. It was, therefore, unanimously voted to grant the appeal subject to the following restrictions:

1. The subject property shall not be further subdivided to create an additional building lot.
2. The proposed dwelling and the configuration of the in-law apartment shall be constructed substantially in accordance with the plans presented to the board.

Vote

Mr. Salerno	Yes
Mr. George	Yes
Mr. Gordon	Yes
Ms. Deering	Yes
Ms. Murphy	Yes

PUBLIC HEARING: Curves by Bruce B. Daniel, Esq., 508 Boston Tpke., Shrewsbury, MA.

PURPOSE: To hear the appeal of Curves by Bruce B. Daniel, Esq., P. O. Box 346, South Boston, MA, for a variance to the Town of Shrewsbury Zoning Bylaw, Section VI, Table I, to allow the use of a portion of the building situated upon property located at 508 Boston Tpke. for the operation of a membership exercise program facility. The subject premises is described on the Shrewsbury Assessor's Tax Plate 33 as Plot 91.

PRESENT: Anthony M. Salerno, Chairman, Paul M. George, Martha P. Deering, Melvin P. Gordon, Bridget M. Murphy and Ronald S. Alarie, Building Inspector.

Mr. Salerno opened the hearing by reading the advertisement as it appeared in the Worcester Telegram on February 18, 2003 and February 25, 2003.

Mr. Salerno: Please identify yourself for the audio record and make your presentation.

Mr. Bond: My name is Ken Bond. I'm representing Curves For Women. The landlord is Industrial Polymers. Susan Dacey is the owner and Bruce Daniel is her husband. They are on a preplanned trip to Florida. Otherwise, he would be here to represent this matter. I'm here instead and I'll hopefully be able to answer your questions.

The issue that perhaps may have arisen is the parking issue. Other than that, there are no structural modifications to the building. We really want a space kind of about that shape. It will all be open inside with the exercise equipment. It's a facility for women only. My wife owns it and runs it. We have 2 other ones, one in Marlboro and one in Framingham. We have the Shrewsbury territory. We've been looking for quite a while for a space in Shrewsbury for this. Finally, one has become available. It's where the Hudson Mattress store used to be at 506 Boston Turnpike. There is an antique store on one side and a lighting store on the other side.

Mr. Salerno: This is in where DeJa Brew is?

Mr. Bond: Yes.

Mr. Salerno: As a landmark, it's opposite the car wash?

Mr. Bond: Yes.

Ms. Murphy: Across from Borders?

Mr. Bond: Yes.

Mr. Salerno: We were just giving the landmarks for people who are listening

Mr. Bond: Yes. We don't think there will be a parking issue. Probably a lot of that is dictated by the hours of operation and the fact of when people really come in to workout and the hours of operation of all of the other businesses there. If you're interested, I can kind of tell you what we think the traffic would be.

Mr. Salerno: Ron, is this a use variance as opposed to a special permit?

Mr. Alarie: Yes. This property is in a Limited Industrial District. Almost all of those storefronts along that façade of the building have been done by variance. The carpet store was done as a building materials store and so was Pella Windows. But, you have DeJa Brew, the lighting store, the antiques store and you had the mattress store. I think, actually, there's a phone company in there as well and they were all allowed by variance.

Mr. Gordon: Cellular One is there.

Mr. Alarie: You're right. All of those were done by use variances and, if you look at the board's decisions, the basis of their reasons was that the building was really not, at least that portion of the building, suitable for industrial use.

Mr. Salerno: Sir, could you give us a little more information about hours of operation, traffic counts and flows, the number of cars you anticipate being in there and information of that nature?

Mr. Bond: Sure. The hours of operation will be Monday through Friday from 6:00 A.M. until about 7:30 P.M. Saturday hours have not been decided yet, but it would probably be 7:30 A.M. to 11:00 A.M.

Mr. Gordon: In the morning?

Mr. Bond: Yes, in the morning. The peak hours for members to use the facility typically occur right at opening. People come in before work so that would be from about 6:00 A.M. to 7:30 A.M. Pretty much, people are on their way at that point to go to their jobs. Then you would have people coming in at that point, but it would be pretty minimal from probably 7:30 A.M. or maybe 8:00 A.M. There may be a little bit at noon, but not as much as in the morning. It would be maybe half that amount, I would say. It depends, but it's usually not nearly as busy. Some of those people are actually working nearby and, if there are any, they decide to come over.

The next really peak time is about 4:30 or 5:00 P.M. until about 6:30 P.M. That coincides with people getting out of work and wanting to stop on their way home or go home first, perhaps, and come back. That's really the peak times. Monday is the day that we would consider as having the heaviest traffic. Tuesday would be less. On Wednesdays and Thursdays, it would be the same as Tuesday. Thursday would be even less than that, probably it would be almost half of the cars as a Monday. On Friday, it picks up a little bit. But, on Monday after the weekend, people want to do something.

Mr. Salerno: You're not open on Sundays?

Mr. Bond: No, no. I looked at the traffic at this point, at the area. In the morning, I don't see any cars, at least parked in the front. It seems those businesses, perhaps, open later and that's when their clientele arrive.

Mr. Gordon: It's not during those peak times?

Mr. Bond: Yes. Then they leave around 4. Maybe you see the cars are gone there too. So, it sort of seems as though we'll be filling in cars there when everyone else has left.

Mr. Salerno: I guess to more specifically answer the question, my original question is, given the square footage you have, what do you anticipate as a traffic flow? You've said it will be busier and less busy at certain times, but how many people will be there during those times?

Mr. Bond: Oh, the actual count?

Mr. Salerno: If you could be more definitive on the count, that will help us judge what cars will be there.

Mr. Bond: Right. I would say that, at the peak time, you're probably talking about around 12 cars. It could be 14.

Mr. Gordon: So, it would be 1 car per person?

Mr. Bond: Well, not quite. I think there are cases where 2 or more women come together.

Mr. Salerno: How many people do you have at your busiest hour?

Mr. Bond: There will be like 16 people at a time on the circuit. There are 13 pieces of equipment.

Mr. Salerno: Can you tell us about your operation and what it is that you're doing. Is it equipment, is it aerobic?

Mr. Bond: Yes, it's both. It's strength training and cardio aerobic.

Mr. Gordon: It's strength.

Mr. Salerno: You can go there?

Mr. Gordon: No, I went there to look at it.

Mr. Bond: Which one did you go to?

Mr. Gordon: I went to the one in Northboro. Is that one of yours?

Mr. Bond: Yes.

Mr. Gordon: But, it has a higher count than what you're talking about at 11:00 A.M.

Mr. Bond: At 11:00 A.M.? Yes, they might. We based ours on Marlboro and Framingham.

Mr. Salerno: Where are they located in Marlboro and in Framingham? Are they on Route 9?

Mr. Bond: They are on Route 20 in Marlboro at the Marlboro Store Plaza and at Edgell Road and Water Street, kind of that intersection in Framingham.

Mr. Salerno: So, you're saying 16 people at peak times, that being 6:00 A.M. to 7:30 A.M.?

Mr. Bond: I would say 7:30 A.M., yes.

Mr. Salerno: And, then again, after work 16 people?

Mr. Bond: Yes.

Mr. Salerno: And, your heavy days are Mondays and Fridays?

Mr. Bond: Well, probably Monday, Tuesday and Wednesday. Thursday and Friday are less. That's what we've seen. Wednesdays are probably a little more than Tuesday or maybe about the same. But, it's usually the beginning of the week and it just tapers off toward the end. Thursday is definitely the lightest day, that's for sure.

Ms. Deering: Have you done a traffic study?

Mr. Bond: There's a considerable amount of parking on the side of the building. That's where we think people will probably also park, not directly in front.

Mr. Salerno: Do you have use of that as part of your lease?

Mr. Bond: Oh, absolutely, yes.

Mr. George: Will those be designated parking areas?

Mr. Bond: Designated in what way, lined off or something?

Mr. George: Yes.

Mr. Bond: The ones right up along side of the building are. Then there is a large open area. I don't know if those are lined or not. I didn't take notice.

Ms. Deering: I don't think so. The pavement there is in pretty bad shape.

Mr. Bond: Yes. I don't think it will be a problem for them to line it if that's a requirement.

Mr. Gordon: It goes all the way around the back.

Mr. George: Is that a driveway that goes around the back?

Mr. Gordon: Well, you could call it that.

Ms. Deering: It's all paved, sort of.

Mr. Alarie: Mr. Chairman, Mr. Gordon expressed his concerns to me about the parking that he had witnessed there. I spoke to Mr. Daniels earlier this week. He actually sent me an email today that reads "we spoke to the tenants at the lighting store this afternoon." This is dated today. "They indicated to us that the excessive parking on the west side of the building is due primarily to an overflow from Border's Books, although they and their

employees park there as well.” He says he “believes that the lining of the parking lot and posting signs will help the situation.” I asked him last week to do a parking analysis. Based on the figures that he has presented to me, keeping in mind that this site was developed under the old bylaw where a parking space constituted 300 sq. ft. of pavement, that they do have an excess of over 33,000 sq. ft. of parking. That’s really consistent with what was presented at many of the other variance hearings. However, I asked him to give me an idea as to what physically he could park on the site with lined spaces. He gave me a note today as well that says he believes that they could line out at least 200 spaces on the lot. If you took the calculations per the bylaw, he’s probably required to have about 130 spaces on that lot based on the various uses there.

Mr. Salerno: The total lot?

Mr. Alarie: For all of the uses and all of the pavement that he has there. Unfortunately, if you go to the westerly side of the lot, there’s quite a bit of pavement towards the rear of the site. It’s not totally accessible or readily accessible to the front of the building and, likewise, on the easterly side. There’s quite a bit of parking beside Boston Tile, behind those buildings and all the way up to the back. There is quite a bit of pavement, but, unfortunately, those people that would visit the retail outlets want to park in front of the building.

Ms. Murphy: What was that portion of the building used for?

Mr. Gordon: Selling mattresses.

Mr. Alarie: It was the Hudson Mattress Company. They did bed furniture, but I think a lot of it was like Butcher Block Furniture as well. It was more or less a furniture store.

Mr. Gordon: Wasn’t Butcher Block there before then?

Mr. Alarie: Yes.

Ms. Murphy: So, the question then becomes the use of a building, whether that store had approximately 16 people in it at any given time or are you increasing the actual use of that property.

Mr. Alarie: Well, if you can compare the retail requirements. I believe the figure that Bruce gave me was 2,200 sq. ft. If that was retail space that would require 11 parking spaces. Are you saying 16 individuals at a time or 32?

Mr. Bond: No, 16.

Mr. Alarie: Our bylaw for this type of activity would require 1 space for every 4 occupants. So, this business would actually require less parking than retail space. But, I think from a practical standpoint, their peak hours would generate more traffic.

Mr. Gordon: How did you do it for the other 3 exercise places in town?

Mr. Alarie: Catalina's, I think, was basically on that 1 for 4. You probably wouldn't recall that there was a situation where that special permit was appealed, it went to Superior Court and the court established a total number of paid memberships that were allowed for that site. We kind of derived from that how many would be there at a peak time. I think we did it perhaps at 1 for 4.

Mr. Gordon: On total memberships?

Mr. Alarie: No, at how many individuals would be in there at any particular point in time. But, the court actually established a maximum number of memberships that they could allow there. Then, I think the board established what the appropriate parking was.

Mr. Gordon: What about the one behind the Driftwood?

Mr. Alarie: I can't address that. That was too far back. That goes back to the 1970's.

Mr. Gordon: That was Simply Fitness then?

Mr. Alarie: Right. They had all of the courts and offered different types of recreation activities. They also have a small lounge area in there as well.

Mr. Gordon: But, basically, with a membership club, if I remember correctly, the bylaw talks about the number of seats.

Mr. Alarie: Right. Well, seats and that relates to how many individuals could be there.

Mr. Gordon: If you don't have seats, how do you establish the parking?

Mr. Alarie: I think that would correspond to the occupant load. The parking for all of those places of assembly are based on 1 per 4 occupants and you would then have to provide the corresponding parking.

Mr. Gordon: My concern is that it's not 16, that it's closer to 24 or more because when you've got some going, you've got some coming. So, you have a mix of 2 classes because it's programmed exercise. So, there are what, 30 minute sessions?

Mr. Bond: Yes.

Mr. Gordon: So, unless they're waiting for a machine, they're running through and coming out in 30 minutes. So, less than every 30 minutes it's 16 people if that's what you wanted to do.

Mr. Bond: Yes. I can expand on that a little bit. Actually, the way it works is there is no scheduling for it so it runs continuously. So, when somebody comes in they hop on an open station and they'll do their workout, it's about 24 or 25 minutes, and go around 3 times. They have 16 stations. There are no showers or anything. People are usually on a time budget when they come in anyway. So, they usually come in and get out. Yes, there will be some coming and going, but it's going to be staggered. It's not all at once.

Not everybody comes and does 30 minutes at the same time. It's continuous. So, it's spread out.

Mr. Gordon: So, if we considered 24 people there, that would probably be more realistic for the parking than just saying the 16. At the one that I saw, there were more than 16 people there. There were people waiting for the machines or for the little squares on the floor.

Mr. Alarie: This is a little bit more controlled than the Tennis Club or Family Fitness or Catalina's where people can spend as much time as they like.

Mr. Gordon: This is just basically a half an hour?

Mr. Alarie: Right. Plus there are other activities that you have to take into consideration. At the Tennis Club, there is a little lounge there. You can stay there for a while longer. You can occupy those parking spaces for a longer period of time.

Mr. Gordon: If he waited 90 days or 120 days, he wouldn't need us, would he?

Mr. Alarie: If you're successful at the upcoming Town Meeting, this site will all be rezoned to Commercial Business and, yes, that would become a permissible activity there.

Mr. George: How many memberships do you have in your other operation?

Mr. Bond: We have about 450 in Marlboro and about the same in Framingham, maybe 475 or something like that. We are, of course, interested in opening soon. This is a time of year when people do want to join to take advantage of being ready for summer activities. It is seasonal also, I must say. In the summer, the amount of people coming is quite a bit less. I can't give you a round number, but people are out doing other things and feel less of a need to exercise and are busier.

Mr. Salerno: What type of machines do you have?

Mr. Bond: They're custom designed. They look kind of like a Nautilus machine. Instead of having weights, they have hydraulic cylinders which adjust to the strength level of any individual. It's one of the, kind of, important concepts here. No matter what fitness level you are you can get good benefit from them without having to adjust anything. That's one of the ways it keeps it down to such a quick cycle time of less than 30 minutes. There really aren't any adjustments from user to user.

Mr. Gordon: It looks like a small cardio machine. That's pretty much what you're doing is cardio exercise?

Mr. Bond: Well, the strength training is for the hydraulic but you are also, obviously, getting a cardio too. Then you don't have to stop, you go on the aerobic squares. So, you get a combination of both in under 25 minutes.

Mr. Salerno: You do a strength station, a cardio station, a strength station and a cardio station?

Mr. Bond: Exactly. The strength stations alternate on upper and lower muscle groups and parts of the body and then they target different ones within that.

Mr. Gordon: Do you have one employee?

Mr. Bond: We have one or two, depending on the time.

Mr. Salerno: Is there anybody in attendance this evening that wants to comment on this petition? Seeing no further comment, we'll take the matter under advisement, vote at the end of the meeting and notify you of our decision.

The decision of the board is on the following page.

Decision

On March 5, 2003 the Zoning Board of Appeals unanimously voted to grant the appeal of Curves by Bruce B. Daniel, Esq., P. O. Box 346, South Boston, MA, for a variance to the Town of Shrewsbury Zoning Bylaw, Section VI, Table I, to allow the use of a portion of the building situated upon property located at 508 Boston Tpke. for the operation of a membership exercise program facility.

The subject premises is located within a Limited Industrial District and is utilized for multiple purposes including the manufacturing of products used in industrial applications, the retail sales of consumer goods and the retail sale of building materials and related products. Many of the business that occupy the storefronts adjacent to Route 9 were permitted by way of variances issued by this board over the course of the past several years. As enumerated in their past decisions, the board has found that the configuration and construction of the subject building does not lend itself to industrial use and that the literal imposition of the applicable provisions of the Zoning Bylaw imposes a substantial hardship to its owner in their attempt to utilize the space therein. It was their opinion that, in this instance, the conversion of approximately 2,000 sq. ft. of building area, which was formerly used for the sale of bedding and furniture, to house a women's fitness center would not severely depart from either the intent or the purpose of the bylaw. They further noted that the Shrewsbury Planning Board is currently formatting a proposal to rezone this vicinity of the Route 9 corridor to "Commercial Business" and that the Curves facility would be a permissible use within that district. It was, therefore, unanimously voted to grant the appeal subject to the following:

1. Signs shall be erected upon the westerly wall of the subject building indicating that use of the parking area situated between that side of the building and Lake Street is restricted to employees and customers of the various businesses occupying the subject premises.
2. The off-street parking spaces situated within that area of the premises identified in the preceding condition shall be stripped in accordance the minimum width and depth requirements set forth in the bylaw.

Vote

Mr. Salerno	Yes
Mr. George	Yes
Mr. Gordon	Yes
Ms. Deering	Yes
Ms. Murphy	Yes

PUBLIC HEARING: Michael and Carolyn Brennan, 18 Ivy Path, Shrewsbury, MA.

PURPOSE: To hear the appeal of Michael and Carolyn Brennan, 18 Ivy Path, Shrewsbury, MA, for a variance to the Town of Shrewsbury Zoning Bylaw, Section VII, Table II, Minimum Side Yard Requirement, Rural B District, to allow the construction of an addition 6 ft. from the side lot line of property located at 18 Ivy Path. The subject premises is described on the Shrewsbury Assessor's Tax Plate 8 as Plot 58-51.

PRESENT: Anthony M. Salerno, Chairman, Paul M. George, Martha P. Deering, Melvin P. Gordon, Bridget M. Murphy and Ronald S. Alarie, Building Inspector.

Mr. Salerno opened the hearing by reading the advertisement as it appeared in the Worcester Telegram on February 18, 2003 and February 25, 2003.

Mr. Salerno: Counsel, would you identify yourself and make your presentation.

Mr. Brennan: Good evening, Mr. Chairman. My name is Michael Brennan. This is my wife, Carolyn. Ladies and gentlemen, we're seeking a variance. We have a son who's handicapped. We don't currently have a garage on the house. The way it is configured, in order to get him in and out of the house, we finally decided after the winter that has taken place not to load him. The angle at which he sits, because of his disability, is really face-up. It is not easy to shield him. So, we decided to try to build an addition off of the side of the house. The plan that you see shows the garage and a living space above the garage.

Mr. Salerno: And, the request for this is medical as much as need?

Mr. Brennan: Yes, it is.

Mr. Gordon: Is it going to be a single car garage?

Ms. Brennan: You could fit 2 cars in it. We had to buy a special van and the van itself is very wide. When we bring the lift out, you couldn't fit 2 cars in it.

Mr. Gordon: So, it's 1 van with a lift.

Ms. Brennan: It's 1 van with a lift.

Ms. Deering: What is the space above the garage going to be?

Mr. Brennan: We are going to use it for a master bedroom suite. We do have a letter from the abutter on this side.

Mr. Salerno: That's what I was going to ask you about.

Mr. Brennan: Dr. Sama was kind enough to give us this. He couldn't make it here tonight, but he did give us a letter.

Mr. Salerno: So, you've talked to all of your neighbors, counsel, and there is no opposition?

Mr. Brennan: To the best of my knowledge, that's correct. This particular neighbor is on the side where the 6 ft. would be.

Mr. Salerno: On the side with the garage?

Mr. Brennan: That's correct.

Mr. Salerno: For the record, this is a letter dated February 22nd. It's by Dr. Ralph Sama and his wife, Phyllis, saying that they have no opposition to this as being a direct abutter and wish them well in their endeavor. We'll make this part of the record.

Do any board members have any questions? Is there anybody in attendance this evening that wants to comment on this petition? Seeing no further comment, we'll take the matter under advisement, vote at the end of the meeting and notify you of our decision.

The decision of the board is on the following page.

Decision

On March 5, 2003 the Zoning Board of Appeals unanimously voted to grant the appeal of Michael and Carolyn Brennan, 18 Ivy Path, Shrewsbury, MA, for a variance to the Town of Shrewsbury Zoning Bylaw, Section VII, Table II, Minimum Side Yard Requirement, Rural B District, to allow the construction of an addition 6 ft. from the side lot line of property located at 18 Ivy Path.

The board reviewed the appellants' proposal to construct an addition to the northerly side of their home that would extend to within just over 6 ft. from their side lot line and found that, due to the shape and topography of the subject premises, the literal application of the Zoning Bylaw's minimum setback requirements would present a substantial hardship to the Brennans in their attempt to improve their home. It was their opinion that, in this instance, the reduction of the minimum side yard setback to 6 ft. would not significantly depart from either the intent or the purpose of the bylaw and that the construction and use of the addition would not present any condition which would adversely impact the welfare of either the general public or area residents. It was, therefore, unanimously voted to grant the appeal as presented to the board.

Vote

Mr. Salerno	Yes
Mr. George	Yes
Mr. Gordon	Yes
Ms. Deering	Yes
Ms. Murphy	Yes

PUBLIC HEARING: James and Marie McCrohon, 33 Hunting Ave., Shrewsbury, MA.

PURPOSE: To hear the appeal of James and Marie McCrohon, 33 Hunting Ave., Shrewsbury, MA, for a variance to the Town of Shrewsbury Zoning Bylaw, Section VII, Table II, Minimum Rear Yard Requirement, Residence B-1 District, to allow the construction of an addition 28 ft. from the rear lot line of property located at 33 Hunting Ave. The subject premises is described on the Shrewsbury Assessor's Tax Plate 29 as Plots 100 and 100-1.

PRESENT: Anthony M. Salerno, Chairman, Paul M. George, Martha P. Deering, Melvin P. Gordon, Bridget M. Murphy and Ronald S. Alarie, Building Inspector.

Mr. Salerno opened the hearing by reading the advertisement as it appeared in the Worcester Telegram on February 18, 2003 and February 25, 2003.

Mr. Salerno: Please identify yourself for the audio record and make your presentation.

Mr. McCrohon: Yes, I'm James McCrohon and this is my wife, Marie.

Ms. McCrohon: I'm Marie McCrohon.

Mr. McCrohon: We're requesting to be able to install the Harvey Clear View 3-season Patio Room onto an existing deck to the east part of our home. It's to be constructed by D. Light & Sons from Millbury. It's my understanding that it's not a long involved project. It's supposed to take 2 or 3 days to put it up.

Mr. Salerno: This is a prefabricated glass room?

Mr. McCrohon: Yes.

Mr. Salerno: This will sit on the deck?

Mr. McCrohon: We have a deck there presently which is 16 ft. X 16 ft. We have had that for some time. It's a matter of our closing that in and being more comfortable in a home that we've lived in for 38 years. We'll be able to sit out in the back yard without the mosquitoes. I have some picture of our home, if that would help.

Mr. Salerno: Would you like to present those?

Mr. McCrohon: I didn't know we were supposed to bring anything.

Mr. Salerno: This is the current home?

Mr. McCrohon: Yes, and I took some pictures from the deck.

Mr. Salerno: The footing of the deck is going to remain the same, sir?

Mr. McCrohon: No, they anticipate that they will reinforce the sheathing and the footings.

Mr. Salerno: But, the footprint is actually going to remain the same?

Mr. McCrohon: Oh, yes. Nothing will be changed there.

Mr. Salerno: Except, it's going to be enclosed?

Mr. McCrohon: That's right.

Mr. Gordon: If it's a porch, it doesn't need to meet setback, Ron?

Mr. Alarie: As an enclosed space, it has to satisfy the minimum setback requirements.

Mr. Gordon: Even if it's just an unheated space?

Mr. Alarie: If it's an enclosed space, either with a roof, walls or both, it has to meet the current zoning setbacks.

Mr. McCrohon: In regard to neighbors, we have a well landscaped yard. We have bushes and dogwoods and rhododendrons. We have 8 good sized rhododendrons that should be up over that fence separating the yards in a matter of a year or two and we won't see our closest abutter, as is the case of our abutters on the southern part of the property. The abutters on the northern side are all a distance away.

Mr. Salerno: Your neighbors don't oppose this?

Mr. McCrohon: Not to my knowledge. We get along with everybody.

Mr. Salerno: Is there anybody in attendance this evening that wants to comment on this petition? It doesn't appear that any of your neighbors oppose this.

Mr. McCrohon: Okay.

Mr. Salerno: Seeing no further comment, we'll take the matter under advisement, vote at the end of the meeting and notify you of our decision.

Decision

On March 5, 2003 the Zoning Board of Appeals voted to grant the appeal of James and Marie McCrohon, 33 Hunting Ave., Shrewsbury, MA, for a variance to the Town of Shrewsbury Zoning Bylaw, Section VII, Table II, Minimum Rear Yard Requirement,

Residence B-1 District, to allow the construction of an addition 28 ft. from the rear lot line of property located at 33 Hunting Ave.

The appellants currently have a 16 ft. by 16 ft. deck attached to the rear of their home upon which they propose to erect a 3-season patio room enclosure resulting in a rear yard setback of 28 ft. The board found that, due to the size and shape of the subject premises and the siting of the existing structures thereon, the literal application of the minimum terms of the Zoning Bylaw would present an undue hardship to the McCrohons. It was their opinion that the placement of the proposed structure upon the existing deck would not materially alter the configuration of their property and that the reduction of the rear yard setback under such circumstances would not seriously depart from the intent of the bylaw. It was, therefore, unanimously voted to grant the appeal as presented to the board.

Vote

Mr. Salerno	Yes
Mr. George	Yes
Mr. Gordon	Yes
Ms. Deering	Yes
Ms. Murphy	Yes

PUBLIC HEARING: Stephen and Marianne Davis, 44 Lamplighter Drive, Shrewsbury.

PURPOSE: To hear the appeal of Stephen and Marianne Davis, 44 Lamplighter Drive, Shrewsbury, MA, for a variance to the Town of Shrewsbury Zoning Bylaw, Section VII, Table II, Minimum Side Yard Requirement, Residence A District, to allow the construction of an addition 14 ft. from the side lot line of property located at 44 Lamplighter Drive. The subject premises is described on the Shrewsbury Assessor's Tax Plate 34 as Plot 70-52.

PRESENT: Anthony M. Salerno, Chairman, Paul M. George, Martha P. Deering, Melvin P. Gordon, Bridget M. Murphy and Ronald S. Alarie, Building Inspector.

Mr. Salerno opened the hearing by reading the advertisement as it appeared in the Worcester Telegram on February 18, 2003 and February 25, 2003.

Mr. Salerno: Please identify yourself for the audio record and make your presentation.

Mrs. Davis: Good evening, my name is Marianne Davis. I'm a resident of 44 Lamplighter Drive. I'm here this evening to request a variance so that I can build a garage and a mudroom onto my home. Due to the configuration of the lot, it's impossible to build a 2-car garage with a breezeway on the other side of the home because, again, it's a corner lot. We've been here in Shrewsbury for 11 years and we would like to remain in our home. Our family has grown to 3 children and we do need some more space and storage. We are, I think, one of the last homes in the neighborhood to put a garage on so we're looking to enhance the value of our home by doing that. I think that's about it. I would be happy to answer any questions.

Mr. Salerno: Do you have any plans, photographs, anything you feel that may assist the board in rendering their decision?

Mrs. Davis: I do have plans.

Mr. Salerno: Would you like to show them to us?

Mrs. Davis: This is the front view of the house. This area here would be added on, a breezeway and a 2-car garage.

Mr. Salerno: If you could, just turn and show that to the people that are here. Are you going to submit those to the board?

Mrs. Davis: I don't have an extra copy.

Mr. Salerno: We'll return them to you.

Mrs. Davis: Do you want all of them or just these?

Mr. George: Is there going to be any living space above the garage?

Mrs. Davis: Yes, there'll be a master bedroom suite over the garage.

Mr. Salerno: Was that depicted on the floor plans behind this?

Mrs. Davis: Yes.

Mr. Gordon: Is this similar to the garage being built next door to you?

Mrs. Davis: Quite similar, yes.

Mr. Gordon: Does this property have a similar hardship in that there's a lot of wetland in the back, also?

Mrs. Davis: There are wetlands way in the back but I don't think that's what's presenting the hardship. We just want to build out across the driveway and put in a garage.

Mr. Gordon: And, the hardship is?

Mrs. Davis: The hardship would be the request for a 6 ft. extension so that we can build a mudroom for storage and just to enter the house through a room instead of through a garage.

Mr. Gordon: And, it's the only place you could build it on the house?

Mrs. Davis: That's correct. We're on a corner so I'm sure we would need more of a variance if we were to build on the other side. Plus, the house was constructed to accommodate it on the side that we're requesting.

Mr. Alarie: Mr. Gordon, there is a wetland delineation on the plot plan that shows a line that runs between the house and the pool. I know they had to go to the Conservation Commission to site the pool. I believe there's also a drop-off between the house elevation and where the pool is located.

Mr. Gordon: So, there would be a hardship with the land.

Mr. Alarie: There is a substantial drop in grading across the depth of the lot. Do you agree with that Mrs. Davis?

Mrs. Davis: Yes. We've been to the Conservation Commission and addressed that issue a couple of weeks ago.

Mr. Salerno: Ron, they're asking for side yard relief on this but it's a corner lot?

Mr. Alarie: Yes. On the corner lot situation they have 2 front yard requirements, one from Lamplighter and one from Melody Lane, no rear yard setback and the 2 side yard setbacks.

Mr. Salerno: Is there anybody in attendance this evening that wants to comment on this petition? You did a good job Ms. Davis; nobody has any questions. Seeing no further comment, we'll take the matter under advisement, vote at the end of the meeting and notify you of our decision.

Decision

On March 5, 2003 the Zoning Board of Appeals unanimously voted to grant the appeal of Stephen and Marianne Davis, 44 Lamplighter Drive, Shrewsbury, MA, for a variance to the Town of Shrewsbury Zoning Bylaw, Section VII, Table II, Minimum Side Yard Requirement, Residence A District, to allow the construction of an addition 14 ft. from the side lot line of property located at 44 Lamplighter Drive.

The appellants' property is situated at the corner of Lamplighter Drive and Melody Lane and they propose to construct an addition to the westerly side of their home that will extend to within 14 ft. of their side lot line. The addition will consist of a breezeway and an attached garage at street grade with a master bedroom arranged within the second floor level of that portion of the addition. The board found that there are several features affecting this parcel that restrict the expansion of the Davis' home to that area proposed in this appeal, including the lot's configuration, a severe drop in its topography from its front to rear yard and a large area of wetlands that encumbers the northerly half of the property. It was their opinion that, in this instance, the literal application of the minimum provisions of the Zoning Bylaw would impose a substantial hardship to the appellants and that the reduction of the side yard setback by 6 ft. would not seriously depart from the intent or purpose of the bylaw. The board found that the construction and occupancy of the proposed addition would not conflict with the general character of this neighborhood or create any condition which would adversely impact the welfare of the general public and they, therefore, unanimously voted to grant the appeal as presented to the board.

Vote

Mr. Salerno	Yes
Mr. George	Yes
Mr. Gordon	Yes
Ms. Deering	Yes
Ms. Murphy	Yes

PUBLIC HEARING: Nilesh V. and Heidi G. Shah, 1 Woodside Drive, Shrewsbury, MA.

PURPOSE: To hear the appeal of Nilesh V. and Heidi G. Shah, 1 Woodside Drive, Shrewsbury, MA, for a variance to the Town of Shrewsbury Zoning Bylaw, Section VII, Subsection C, to allow the continued maintenance of an inground pool 6 ft. from the side lot line of property located at 1 Woodside Drive. The subject premises is described on the Shrewsbury Assessor's Tax Plate 12 as Plot 5-20.

PRESENT: Anthony M. Salerno, Chairman, Paul M. George, Martha P. Deering, Melvin P. Gordon, Bridget M. Murphy and Ronald S. Alarie, Building Inspector.

Mr. Salerno opened the hearing by reading the advertisement as it appeared in the Worcester Telegram on February 18, 2003 and February 25, 2003.

Mr. Salerno: Counsel, would you identify yourself for the record, your clients and make your presentation.

Atty. Cotton: My name is Daniel Cotton. I'm here on behalf of Nilesh and Heidi Shah who are the owners of 1 Woodside Drive in Shrewsbury which is at the corner of Woodside Drive and Blackthorn Road. I have a plot plan for you.

Mr. Salerno: This is an existing pool that's already there?

Atty. Cotton: Yes. The pool was constructed in 1997 by two owners previous to the Shahs purchasing this property. The property was sold in the year 2001. A plot plan was done at the time that did not reveal that part of the pool was indeed within the 20 ft. setback. When the property was conveyed to the Shahs last year, it became apparent that there was a possible problem. We had the surveyor go back and try to pin it down as best he could. As you can see from the plan, that wasn't done until very recently. We would need a complete survey to come within the exact footage, but his best guess on a conservative basis is that one corner of the pool, as you can see from that plan, is within 7 ft. of the lot line. There have been no complaints from any of the neighbors since the pool has been in operation, at least not with the last 2 owners. I presume that's the case with the original owner that put the pool in. I don't know if the property that abuts there is conservation or it's not buildable in any fashion. As a result, we're asking on behalf of the Shahs to have this variance granted so that they would not have to remove that pool and that they would be able to continue to use it as they've been able to use it.

Mr. Gordon: Is the land on Plot 5-41 conservation? Did they have to go before the Conservation Commission?

Mr. Alarie: I have the original permit for the pool. It doesn't indicate that on it, but they could be outside the buffer, Mr. Gordon.

Mr. Gordon: I looked there and even in the winter it's difficult land.

Mr. Alarie: Well, it's kind of open. There's a considerable amount of wetland in that Blackthorn, Woodside area. But, I don't have that delineated on the permit application. Usually, if there's a wetlands issue, we have the Conservation Officer sign-off on the permit.

Mr. Gordon: And this was just something that was missed by the title searchers?

Mr. Alarie: I would believe that somewhere down the line, probably because of the configuration of the lot and that open space there, it didn't represent a problem. Obviously, the pool people or someone put it in in error.

Atty. Cotton: I believe the people that had the house either built for them or the first resident of the house installed the pool subsequent to buying the house. It was not revealed on the subsequent sale. It was not discovered on the second sale.

Ms. Murphy: Mr. Cotton, I have a vague memory and I could be wrong, but, on a dimensional variance, isn't there a 5 year statute of limitations and why hasn't it run? Was the pool put in with the building permit?

Mr. Alarie: If I could answer that, there is a 6 year statute of limitation if a permit is granted in error. Suppose that, when we issued that permit, it was supposed to be 20 ft. and we issued the permit at 10 ft. That type of scenario would be legal after 6 years. There is 10 year statute of limitation for a structure that is built in error or without a permit.

Mr. Gordon: So, one has run and one has not?

Mr. Alarie: Excuse me?

Mr. Gordon: One would have run and one would have not.

Mr. Alarie: Neither of them would. We're talking 1997.

Ms. Murphy: We're close.

Mr. Alarie: No, the permit was actually issued in September of 1997. So, that would take you to 2007 for the 10 year limitation.

Mr. George: Ron, who was in error, the owner or the pool company?

Mr. Alarie: I can't answer that, Mr. George. The permit was taken out by the pool company. I'm not sure who provided the plot plan or who located the property line, whether it was the pool company, the owner or someone else.

Mr. Gordon: But, it was done with a permit?

Mr. Alarie: It was done with a permit, yes.

Atty. Cotton: The land behind it was not built upon or developed and is still vacant.

Mr. Gordon: I don't think it ever will be.

Atty. Cotton: So, in all likelihood, the pool installer looked for the best looking place and put it in.

Mr. Salerno: It didn't get caught in the first transfer?

Atty. Cotton: No.

Mr. Salerno: Well, they didn't have you as an attorney then.

Atty. Cotton: Well, they had a different surveyor is what really happened.

Mr. Alarie: I think that's actually true. There was a survey plan that was presented to us at one time that showed it to be in conformance. However, I think either the previous or Mr. Cotton's clients now have a plan that shows it to be in violation.

Mr. Salerno: Is there anybody in attendance this evening that wants to comment on this petition? Seeing no further comment, we'll take the matter under advisement, vote at the end of the meeting and notify you of our decision.

The decision of the board is on the following page.

Decision

On March 5, 2003 the Zoning Board of Appeals unanimously voted to grant the appeal of Nilesh V. and Heidi G. Shah, 1 Woodside Drive, Shrewsbury, MA, for a variance to the Town of Shrewsbury Zoning Bylaw, Section VII, Subsection C, to allow the continued maintenance of an inground pool 6 ft. from the side lot line of property located at 1 Woodside Drive.

The appellants purchased the subject property in March of 2002 with the improvements thereon included a single family dwelling and an inground swimming pool situated to the southeasterly side of their home. The pool, which is the subject of this appeal, was installed in 1997. Subsequent to Mr. and Mrs. Shaw taking title to this property, a new survey was performed that revealed that the pool was not placed as shown on the plans submitted at the time of its permitting and that its siting did not conform to the minimum side yard setback requirement.

Upon review of this appeal, the board noted that the land abutting the easterly side of the subject premises is town owned and is substantially encumbered by wetlands rendering it unbuildable. They also noted that a portion of the Shaws' lot is similarly impacted by

wetlands thereby limiting its developable area. It was their opinion that, due to these issues, the literal application of the applicable terms of the Zoning Bylaw would present a significant hardship to the petitioners and that the reduction of the minimum setback for this accessory structure would not severely depart from either the intent or the purpose of the bylaw. They found that the positioning of the pool, since its installation, has not presented any condition which has adversely impacted the welfare of either the general public or area residents and it was, therefore, unanimously voted to grant the appeal as presented to the board.

Vote

Mr. Salerno	Yes
Mr. George	Yes
Mr. Gordon	Yes
Ms. Deering	Yes
Ms. Murphy	Yes

PUBLIC HEARING: Sprint Store/Serrato Signs, 196 Boston Tpke., Shrewsbury, MA.

PURPOSE: To hear the appeal of Sprint Store/Serrato Signs, 15 Dewey Street, Worcester, MA, for a variance to the Town of Shrewsbury Zoning Bylaw, Section VII, Subsection E-2, to allow the installation of a 40 sq. ft. sign upon property located at 196 Boston Tpke. The subject premises is described on the Shrewsbury Assessor's Tax Plate 32 as Plot 408.

PRESENT: Anthony M. Salerno, Chairman, Paul M. George, Martha P. Deering, Melvin P. Gordon, Bridget M. Murphy and Ronald S. Alarie, Building Inspector.

Mr. Salerno opened the hearing by reading the advertisement as it appeared in the Worcester Telegram on February 18, 2003 and February 25, 2003.

Mr. Salerno: Please identify yourself for the audio record and make your presentation.

Mr. Serrato: My name is Andy Serrato from Serrato Signs out of Worcester, MA. I'm here representing the Sprint Store that's wishing to put a new wall sign up on the front of the Drew Mortgage Building. If you went by there, they've done a lot of work on the building and dressed it up to give it a nicer look. Over each storefront, they've squared off a 3 ft. x 18 ft. area for signage. The way the Sprint Store logo lays out, I squared out the whole sign and came up with 40 sq. ft. In talking with Ron, I could have taken the individual letters and brought it down in area, which would have brought it to about 26 sq. ft. I chose to go at it with 40 sq. ft. According to the bylaw, the signage won't be over what's allowed for the area. It's just that it's limited to 20 sq. ft. per sign. If I understand the bylaw correctly, they could have 2 separate signs at 20 sq. ft. to go on the store front. To give it a nicer look, I'm only going to have the one sign.

Mr. Gordon: Where's Mr. Rawan?

Mr. Serrato: I couldn't answer that question.

Mr. Gordon: I have a problem. My problem is, and I've expressed it before, I don't like the fact that Route 9 in Shrewsbury is known for having a proliferation of nonconforming and, for the lack of a better word, ugly signs. We've got a pylon there. If you drive by there right now, you cannot see Sprint's sign that's right under Drew's sign that you really can't see either. Somewhere down in the middle of it, there's a light and at the bottom where chickens were sold it tells you that somebody's having ballroom dancing. On the other side, it tells you that there are 3 more stores. So, there are about 14 signs there. Then, just because there aren't enough signs, he has another sign, that nobody can see, that's got 3 names on it. So, you're going to put 14 signs on the side of the building? You've got 14 or 16 signs out front. I think we ought to see Mr. Rawan or have Sprint convince Mr. Rawan that he's got to improve one or he doesn't get the other.

Mr. Serrato: My customer's caught up in the middle of this. I understand your question. I talked with Mr. Alarie about this. I don't want to hold up this customer on what I'm about to say, but I do have an appointment with them tomorrow. We are supposed to finalize what he wants to do with the pylon sign out in front and on the side. I actually made a phone call last week to see what I needed to get onto the next agenda. I got this in at the last minute because they are open and they need a sign to identify the front of their building.

Mr. Gordon: Well, they've got a temporary sign.

Mr. Serrato: Yes.

Mr. Gordon: Yes. How big is that? How many square feet?

Mr. Serrato: I couldn't answer that.

Mr. Alarie: It's about the same as this, more or less.

Mr. George: Ron, is there a variance on Drew Mortgage's sign already?

Mr. Gordon: Yes, there was. I remember that.

Mr. Alarie: I discussed this in length with Mr. Serrato. He's been quite cooperative as far as getting the owners to understand that something has to be done collectively with all of the signs there.

Mr. Gordon: He's between a rock and a hard place.

Mr. Alarie: Exactly. He's brought the parties together. Unfortunately, I had this advertisement in and I had convinced him to get the Rawans to reconsider the entire sign package for that site. He indicated to me that they had agreed to come in as a whole package, but it was just too late to get onto this agenda. This was already advertised. I think it's important, if they're cleaning up the front of the building and its entire façade, to address the signage. I believe, from what I understand from Mr. Serrato, that they've agreed to do that and will discuss getting on the next agenda.

Mr. Gordon: I think what they've done is a great job. But, every time I drive by the sign, and I'm serious, I'm looking for a dozen eggs at 29 cents or something like that.

Mr. Serrato: I do have drawing that they have agreed to. Part of it was they have a lease with Sprint that allowed them so much square footage for their sign. The existing sign that was here was, which he could have refaced, taken down to do the front of their building. So, Sprint tied their hands on allowing them x amount of signage. So, now the Rawans have to do something with this Sprint customer. Part of what they're doing is the pylon. Once again, I couldn't get it in on time, but they wanted me to address at least this sign.

Mr. Gordon: How will we address our decision so that Mr. Rawan does what he says he's going to do?

Mr. Alarie: I think that, if you're inclined to do this, you can issue it for 6 months or a year and it expires if a complete sign presentation isn't approved.

Mr. Gordon: Otherwise, it continues?

Mr. Alarie: Right.

Mr. Gordon: I have no problem with that.

Mr. Salerno: It's the policing issue when we start breaking them down into those smaller units.

Mr. Gordon: I'm not saying one should be on as a pylon. I'm just saying that the pylon is less than attractive.

Ms. Deering: It's at least 40 years old.

Mr. Serrato: If you look at what they're doing, they are cleaning up their building.

Mr. Gordon: Oh, I think they've done a wonderful job. I realize the problems with financing. I think consideration has to be given for their tenants. I mean, I think right now that, if you drove coming up Route 9 going east and you just saw the pylon, you'd drive right by until you saw the Sprint sign on the building, if you could see it. Is this sign going to be lit?

Mr. Serrato: Yes, it is. It's going to be individual letters. Once again, they're going to be 3 in. x 18 in.

Mr. Gordon: But I think that sign is detrimental to all of the tenants because I think it conveys the message that, since 40 years ago, we haven't improved anything, we aren't putting any money in and the converse is true. So, I would be inclined to issue a variance that would expire unless we got some work on the 2 pylons. But, I'm just one vote.

Mr. Serrato: I can't speak for the Rawans, but I am very comfortable with the conversation I had with them today. When I signed this and when he talked with his

brother, he tried to get me to do the other one at the same time, but I couldn't put everything together for them in time.

Mr. Gordon: I'm sure that, if we condition it, Sprint will lean on them or their lawyers.

Mr. George: Is the lettering going to be comparable to what Drew Mortgage's is?

Mr. Serrato: Yes.

Mr. George: Is it going to be the same color scheme?

Mr. Serrato: It's going to be black letters with a white face. The logo, I believe if I remember correctly, is gray. One thing that they're doing is one of the businesses is moving out in the front. I'm doing a sign on the side of the building that's the same thing. They're keeping everything with the channeled letter look. They want to accomplish a clean look there.

Mr. Alarie: I think that, if you step back and you look at what was there before, the fitness equipment, the computer store, it was kind of a mess. It was very messy. They were all individual signs. I think this will clean up that façade. But again, your image of that site is not the improvements to the building but the existing pylons, especially the one out front at the roadside.

Mr. Gordon: You're caught in the fact that we're trying to convert that section of Route 9 into a gateway area into Shrewsbury and do you want to see a sign that you can't read.

Mr. Serrato: Well, if I go to the 20 sq. ft. that's allowed by code for the wall, you're not going to see it. It's going to be too small. That's why they wanted to go with the 40 sq. ft. The letters are going to be too small and you wouldn't be able to read them. Mr. Alarie said, pretty much, that the banner that's up there is not too much larger than what is here. A 20 sq. ft. sign is certainly allowed, but they just want something that's more legible and more readable from the road.

Mr. Gordon: So, I would imagine they would want to have the pylons fixed so that they could keep a sign that big. My thought is that, if he has said that he is going to fix it, give him reasonable time to fix it and make this variance that reasonable time which will continue if the work is done on the pylons.

Mr. Serrato: Not to put my foot in my mouth here, but you are changing some zoning in town. Am I correct?

Mr. Alarie: That's correct.

Mr. Serrato: Is there going to be any kind of a change here with the zoning changes?

Mr. Alarie: That is actually going to change to Commercial Business. No, I'm sorry, I misspoke. It will stay Limited Business at this point in time.

Mr. Serrato: So, the 20 sq. ft. sign would stay?

Mr. Alarie: As of right now, yes. There are some future proposals for that section of the Route 9 corridor. But, as of right now, the only thing that will come up at the end of the month will be for that area of Route 9 that is further east.

Mr. Gordon: Everybody recognizes that it's a unique area and that it is one of the commercial engines of Shrewsbury. That's why we would like it to look a lot better.

Mr. Serrato: What I'm hoping to do when I meet with them tomorrow is to improve the pylons that are in place. He agreed to the layouts that I gave him. It cleans up the 2 pylons. I'm also going to ask him that we go for a variance for the other front sign to allow a little bit more square footage also.

Mr. Gordon: The other front sign where?

Mr. Serrato: I believe there's one more business going in there.

Mr. Gordon: Whatever that place is, the exercise place? How much frontage are you allowed.

Mr. Serrato: It's all the street frontage. It goes down by the bank.

Mr. Alarie: You have in excess of 375 ft. along Route 9. You have about 371 plus another 67 ft. along Svenson Road.

Mr. Gordon: He owns the bank too, right?

Mr. Alarie: Actually, you have the 2 bank buildings and you have some frontage on Edgewater Avenue. There's a considerable amount of frontage here.

Mr. Gordon: Yes.

Mr. Alarie: But, the limitation is the 20 sq. ft. in this district.

Mr. Salerno: Well, I'm trying to reconcile Subsection B in the case where we've got multiple signs at this location. It says "in a case of multiple signs, the aggregate area shall not exceed 1 sq. ft. for each foot of frontage along the street lot line on which it faces." In this particular case, it would be Route 9.

Mr. Serrato: I think then it goes back saying no 1 sign can be more than 20 sq. ft. That's the problem that I'm having.

Mr. Salerno: The problem I'm having is trying to total up all of the different signs for all of the different buildings.

Mr. Serrato: Right now, I have all of the calculations, but I don't have it with me. The calculation of all of the existing signs before they did the façade over was less than what was allowed per frontage. So, even if you allow them the 40 sq. ft. and if you allow

Fitness Equipment and the 2 on the side 40 sq. ft. that's still going to be there, we're well below 1,000 sq. ft. And, that's including 2 pylons that are going to be where they are.

Mr. Salerno: Seeing no further comment, we'll take the matter under advisement, vote at the end of the meeting and notify you of our decision.

Decision

On March 5, 2003 the Zoning Board of Appeals voted to deny the appeal of Sprint Store/Serrato Signs, 15 Dewey Street, Worcester, MA, for a variance to the Town of Shrewsbury Zoning Bylaw, Section VII, Subsection E-2, to allow the installation of a 40 sq. ft. sign upon property located at 196 Boston Tpke. Sprint Store/Serrato Signs, 15 Dewey Street, Worcester, MA, for a variance to the Town of Shrewsbury Zoning Bylaw, Section VII, Subsection E-2, to allow the installation of a 40 sq. ft. sign upon property located at 196 Boston Tpke.

Upon review of this appeal, the majority of the board found that the granting of the relief requested would, at this time, derogate from the general intent of the sign provision set forth in Section VII, Subsection E, of the Zoning Bylaw. It was their opinion that a master plan of the reconfiguration of the various signs advertising the myriad of business occupying this site should be presented to the board rather than on a sign by sign basis. They, therefore, voted to deny the appeal.

Two members of the board were of the opinion that, with the improvements that have been performed to the subject building over the course of the past several months, the proposal by the Sprint Store would compliment those improvements and, when compared to signs that were previously positioned upon the front face of the building, the proposed sign would be a marked improvement. They, therefore, voted to grant the relief requested.

Vote

Mr. Salerno	No
Mr. George	No
Mr. Gordon	Yes
Ms. Deering	Yes
Ms. Murphy	No

PUBLIC HEARING: Kris A. Vokes, 33 Bay View Drive, Shrewsbury, MA.

PURPOSE: To hear the appeal of Kris A. Vokes, 33 Bay View Drive, Shrewsbury, MA, for a variance to the Town of Shrewsbury Zoning Bylaw, Section VII, Table II, Minimum Rear Yard Requirement, Residence B-2 District, to allow the construction of an addition 29 ft. from the rear lot line of property located at 33 Bay View Drive. The subject premises is described on the Shrewsbury Assessor's Tax Plate 57 as Plot 22.

PRESENT: Anthony M. Salerno, Chairman, Paul M. George, Martha P. Deering, Melvin P. Gordon, Bridget M. Murphy and Ronald S. Alarie, Building Inspector.

Mr. Salerno opened the hearing by reading the advertisement as it appeared in the Worcester Telegram on February 18, 2003 and February 25, 2003.

Mr. Salerno: Please identify yourself for the audio record and make your presentation.

Mr. Vokes: I'm Chris Vokes of 33 Bay View Drive. I live at the residence with my wife and 2 kids. The house has been in the family probably since 1960. We're looking at putting on I guess you would call it a 3-season room because it won't be heated from the main heating system and a deck that comes off of that. Currently, if you look at the back of the house there are 3 sliders on the top and a slider on the first floor. There used to be a deck that came out from that area, but I took that down. It was pretty rotted with termites and so forth. We propose to put this room on the back to kind of enjoy the lake view in the back. Actually, I've measured from the room to the lake. It's further than the 29 ft. But, I wanted to make sure that I went through the official process to get the right permits and just do everything legitimately. As you know, in Edgemere on the lakefront there is not a great distance in the back of most homes; it's just the way it was set. These were all cottages years ago. People have added on. Some houses have been completely knocked down and rebuilt. So, we actually call it the front of the house versus the rear. For the ZBA, it's street frontage and the lake's the rear. So, basically, I'm looking for a variance to allow the structure, this room, to be put on the back. I don't know if there are any specific questions. I would be more than happy to answer them.

Mr. Salerno: What are the dimensions of the room?

Mr. Vokes: It's 14 ft. x 24 ft., coming out 14 ft. from the house. It's just the same width as the house. Actually, the house juts out on either side towards the center of the house. So, this is the narrower part of the house. It wouldn't even go out of the footprint of the house width wise.

Mr. Salerno: This is preexisting, nonconforming, Ron?

Mr. Alarie: The lot, excuse me, is preexisting, nonconforming as is the siting of the house. The front yard setback, you see a garage that's almost on the southerly side lot line.

Mr. Salerno: The house itself is in the rear corner. Where the new deck addition would be it would be what, 5 ft.?

Mr. Alarie: Excuse me?

Mr. Salerno: The new addition that they're proposing at the rear southerly line is ± 5 ft.?

Mr. Alarie: No, that's the deck. The new room is in compliance with the side yard setback; however the rear yard setback is only 29 ft. In this district it should be 40 ft.

Mr. Salerno: So, there's going to be a new deck addition. So, that's going to be a deck, not a room that's shown here?

Mr. Alarie: That's correct.

Mr. Gordon: The room's in yellow. Or, on mine it's in yellow. Is this going to be 2 stories?

Mr. Vokes: The room will have a foundation underneath and be just 1 level. It won't be 2 stories, I guess, from the house. It would be a walkout basement.

Mr. Gordon: From the basement? There will be a basement added or is the basement there?

Mr. Vokes: No, there'll be a foundation put underneath it.

Mr. Salerno: Is it going to be a full foundation or a crawl space?

Mr. Vokes: Basically, it's going to be, yes, a basement. I have to go through the Conservation Commission.

Mr. Salerno: Do you have plans or diagrams or anything?

Mr. Gordon: Do you have any elevations?

Mr. Salerno: One of our concerns is that it is going to impede, I think, anybody else's view of the lake?

Mr. Vokes: Yes, well it's right behind my house. Actually, I have some of my neighbors right here on one side. They look straight back. My father-in-law is actually on the other side. He is not here tonight. They don't have an issue. So, they both look straight from that area.

Mr. Salerno: And, there are nobody else's elevations or views that will be affected by that?

Mr. Vokes: No, because it comes straight back from the house.

Mr. Salerno: Do any board members have any questions? Is there anybody in attendance this evening that wants to comment on this petition?

Decision

On March 5, 2003 the Zoning Board of Appeals unanimously voted to grant the appeal of Kris A. Vokes, 33 Bay View Drive, Shrewsbury, MA, for a variance to the Town of Shrewsbury Zoning Bylaw, Section VII, Table II, Minimum Rear Yard Requirement, Residence B-2 District, to allow the construction of an addition 29 ft. from the rear lot line of property located at 33 Bay View Drive.

The appellant's property is located between Bay View Drive and the northerly shoreline of Lake Quinsigamond and is nonconforming in several regards, most noticeably its size having only 7,400 sq. ft. of land area. Mr. Volkes proposes to construct an addition to the rear of his home that would extend to within 29 ft. of the lake's shoreline.

Upon review of this appeal, the board found that, due to the size and shape of the subject premises and the siting of the existing structures thereon, the literal application of the pertinent minimum zoning requirements would impose a substantial hardship to the appellant in his attempt to expand his home. It was their opinion that the reduction of the rear yard setback adjacent to vast openness provided by the lake's exposure would not depart from the intent of the Zoning Bylaw or create any condition which would adversely impact the welfare of either the general public or area residents. It was, therefore, unanimously voted to grant the appeal as presented to the board.

Vote

Mr. Salerno	Yes
Mr. George	Yes
Mr. Gordon	Yes
Ms. Deering	Yes
Ms. Murphy	Yes